

REMARKS

Claims 19, 24-29, 32-39 are pending in the present application. Claims 19, 24, 27, 32, 33 and 37 have been amended, and claims 20-23, 30, 31 and 40-43 have been canceled without prejudice to or disclaimer of the subject matter contained therein. Method claims 33 and 37 have been withdrawn but are being amended for the purposes of rejoinder once the composition of matter claims are deemed allowable. Independent method claims 34-36 are also in condition for rejoinder.

Reexamination of the application and reconsideration of the rejections and objections are respectfully requested in view of the above amendments and the following remarks.

I. Interview Summary

Applicants wish to thank the Examiner for the helpful telephonic interview conducted on April 29, 2009, wherein proposed amendments to the claims were discussed. These proposed amendments are being presented herewith. Also discussed was the Martin et al. reference cited in the Office Action. The Examiner indicated that claims wherein R¹ is C₁-C₄-haloalkoxy would be considered.

II. Rejection Under 35 U.S.C. § 103

The Office Action rejects claims 19, 23-27, 32 and 38-43 as allegedly being obvious in view of Martin et al. The Office Action alleges that the i-Pr group adjacent to the cyano in Martin et al. renders homolog compounds obvious, wherein a homolog is defined as methyl/ethyl. OA, p. 3. Without acquiescing to any reasoning set forth in the rejection, the claims as amended are directed to compounds wherein the R¹ group adjacent to the cyano is C₁-C₄-haloalkoxy. Therefore, the rejection based on homology has been rendered moot. Applicants respectfully request reconsideration and withdrawal of the rejection of claims 19, 23-27, 32 and 38-43.

III. Rejoinder

Upon finding claims 19, 23-27, 32 and 38-43 allowable, Applicants request rejoinder of method claims 33 and 37, each of which contains all the limitations of claim 19.

For the foregoing reasons, Applicants submit that the claims are in condition for allowance. A Notice to this effect is respectfully requested. If any questions remain, the Examiner is invited to contact the undersigned at the number given below.

The Director is hereby authorized to charge any appropriate fees that may be required by this paper, and to credit any overpayment, to Deposit Account No. 23-1925.

Respectfully submitted,

BRINKS HOFER GILSON & LIONE

Date: JULY 9, 2009

By: 

Bryan L. Skelton
Registration No. 50,893

2801 Slater Road, Suite 120
Morrisville, NC 27560
919.481.1111
691924v1